S. HRG. 98-326

NOMINATION

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

on

JAMES BRIAN HYLAND, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR

JULY 20, 1983

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NOMINATION

WEDNESDAY, JULY 20, 1983

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:05 a.m., in room 428–A, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman) presiding.

Present: Senators Hatch and Randolph.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. Today, the Office of Inspector General of the Department of Labor is one of the principal components of the Federal Government's effort to combat corrupt labor practices in the union movement. As you know, our committee held hearings this year which documented the excellent record of the Office of Organized Crime and Racketeering, a division within the Inspector General's office. This record was achieved through the great courage and dedication of Federal Labor agents and at a great risk to their personal safety.

We tend to forget, however, that this division represents only one of the responsibilities of the Inspector General. At the Department of Labor, as in all other Federal departments, this person is also charged with preventing fraud, waste, and abuse by Federal employees and Federal programs.

Consequently, the Inspector General at the Department of Labor must be a person of great capability and high integrity. After a review of documents submitted to the committee, I feel that President Reagan's nominee, J. Brian Hyland, is a worthwhile candidate for this job. Mr. Hyland has completed all the documentation submitted to him by our committee, and these documents have been circulated to all committee members and their staffs for review.

The committee welcomes you, Mr. Hyland, and we appreciate greatly the brevity of your prepared statement. I will not ask you to summarize it, although you can feel free to do so if you would like to.

STATEMENT OF JAMES BRIAN HYLAND, NOMINATED TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF LABOR

Mr. HYLAND. Thank you, Mr. Chairman.

As you are aware, at the time of my nomination by the President I was the Deputy Inspector General for NASA, and I served in that

capacity for 2½ years. Prior to that time I was the Assistant Inspector General for Investigations.

Before entering into the Inspector General community I was employed by the FBI for a period of 16 years, rising through the rank of inspector. During that period of time I was detailed to the Surveys and Investigations Staff with the House Appropriations Committee as assistant director and director. During that time I performed many major reviews in the executive branch.

Prior to entering on duty with the FBI, I served in the area of public accounting with a major accounting firm and did diversified audit work, including auditing of several union and health pension plans. I am a CPA, having obtained my license in the State of New York.

Since my nomination I have been serving as the Deputy Inspector General at the Department of Labor, and I am still in the process of learning the ongoing efforts of that office. I am very impressed with the number of dedicated professionals within this office and the sophisticated level of their work efforts.

I am also pleased with the Office of Audit, in that it has been able to turn its attention from concentrating solely on mandatory financial and compliance audits to up-front reviews of major programs, with emphasis on preventing fraud, waste, and abuse. The Office of Investigation has demonstrated great success in identifying and removing ineligible recipients in major benefit programs; and, as you indicated at the outset, the Office of Organized Crime and Racketeering has been very productive in supporting the Department of Justice Strike Forces in investigations involving corrupt union leaders.

In the immediate future I will be working to provide additional resources, particularly in the area of computer technology, for all the professionals within the Office of Inspector General.

One closing comment: Before I came to the Department of Labor I was told that Secretary Donovan was a strong supporter of the Inspector General concept and looked to this office for ideas and recommendations. In the time that I have been there I have found this to be a very accurate assessment, and this adds to my eagerness to get on with the duties charged to me.

Mr. Chairman, that completes my prepared remarks.

[The prepared statement of Mr. Hyland follows:]

STATEMENT OF J. BRIAN HYLAND
NOMINATED TO BE INSPECTOR GENERAL FOR
THE DEPARTMENT OF LABOR
BEFORE THE
COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

I am deeply honored to have been nominated by President Reagan for the position of Inspector General at the Department of Labor. As you are aware the Inspector General Act of 1978 authorizes the Inspector General to conduct and supervise audits and investigations relating to programs and operations at his or her Department or Agency.

I believe my background and experience have prepared me for the responsibilities of this office. Just prior to being nominated, I served for two and a half years as the Deputy Inspector General for the National Aeronautics and Space Administration. Previous to that assignment I worked an additional year as the Assistant Inspector General for Investigations at the National Aeronautics and Space Administration.

Before entering into the Inspector General community I was employed by the Federal Bureau of Investigation for approximately 16 years and occupied a number of responsible positions while rising to the rank of Inspector. During this period I was detailed to the Surveys and Investigations Staff of the Appropriations Committee, House of Representatives where I held the title of Assistant Director and Director. While in this capacity I directed major reviews throughout the Executive Branch ranging from the acquisition of advanced weapon systems to the administration of entitlement programs.

Upon graduation from college I worked almost four years for a national public accounting firm. My work was diversified and included audits of several unions and health benefit plans. I am a Certified Public Accountant having obtained my license in the State of New York.

Since my nomination I have been serving as the Deputy Inspector General at the Department of Labor. I am still in the process of learning the on-going efforts of the Office of Inspector General. I am, however, particularly impressed with the number of dedicated professionals within this office and the sophisticated level of their work efforts.

The Office of Audit has been able to turn its attention from concentrating solely on mandatory financial and compliance type audits to up-front reviews of major programs with emphasis on preventing fraud, waste and abuse. The Office of Investigation has demonstrated great success in identifying and removing ineligible recipients in major benefit programs. The Office of Organized Crime and Racketeering has been very productive in supporting the Department of Justice Strike Forces in investigations involving corrupt union leaders.

In the immediate future, I will be seeking to provide additional resources, both technical and administrative to improve the operational capability of the Office of Inspector General. This includes the use of an integrated Management Information System supported by portable and microcomputers for daily use by all professionals. I would like to insure that the Office of Inspector General Special Agents have the necessary law enforcement authority to properly fulfill their defined mission.

I look forward to pursuing these endeavors and hope to establish a stronger working relationship with the Department of Justice, the Federal Bureau of Investigation and the agencies within the Department.

In closing, I would like to add one comment. Prior to transferring to the Department of Labor, I was told that Secretary Donovan was a strong supporter of the Inspector General concept and looked to this office for ideas and recommendations to achieve greater management effectiveness. In my brief term at the Department, I have found this to be a very accurate assessment and this adds to my eagerness to get on with duties charged to me. Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or other committee members may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: HYLAND (LAST) JAMES (FIRST) BRIAN (OTHER)

Position to which nominated: Inspector General Date of nomination: April 4, 1983

Date of birth: 31 (DAY) May (MONTH) 38 (YEAR) Place of birth: White Plains, New York

Marital status: Married Full name of spouse: Sally Ann Cooke

Name and ages of children: James B. 21; Jill A. 17; Robert J. 20; John F. 19

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Fordham University	1956-1960	B.S.	June 1960
George Washington Univ.	1970-1972	MBA	June 1972

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Outstanding Leadership Award, Association of Federal Investigators, 1981-1982.

NASA - Special Achievement Award, February 1983 $5,000.

NASA - SES Bonus, June 1980 $7,900.

Received other cash awards while employed by the FBI, including an "Outstanding Annual Performance Award."

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Association of Federal Investigators	President	1981-1982
Association of Federal Investigators	Vice-President	Current (1983)
American Institute of CPA's (AICPA)	--	1965 to Present
New York State Society of CPA's	--	1965 to 1982
American Society for Industrial Security	--	1982 to Present
Society of Former FBI Agents	--	1979 to Present
International Association of Chiefs of Police	--	1982 to Present

(SEE ATTACHED)

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1. Postal Clerk, U.S. Post Office, White Plains, New York
   June 1957 to March 1964.
2. Auditor, Ernst & Ernst, White Plains, New York
   June 1960 to March 1964.
3. Special Agent, FBI, Tampa, Florida; Birmingham & Huntsville, Alabama June 1964 to March 1967.
   Special Agent Supv. FBI, Washington, D.C., Quantico, Virginia
   March 1967 to September 1975.
4. Assistant Director, Surveys and Investigative Staff (S&I Staff), Committee on Appropriations, U.S. House of Representatives, Washington, D.C. September 1975 to April 1978.
5. Director, S&I Staff April 1978 to April 1979.
6. Inspector, FBI, Washington, D.C. May 1, 1979 to October 1, 1979.
7. Assistant Inspector General-Investigations, NASA, Washington, D.C. October 1979 to October 1980.

(SEE ATTACHED)

ATTACHMENT

PART 1: STATEMENT OF JAMES BRIAN HYLAND

Memberships: (cont'd)

Computer Audit Subcommittee, AICPA 1974-1975

Employment record: (cont'd)

8. Deputy Inspector General, NASA, Washington, D.C. October 1980 to March 1983.

9. Deputy Inspector General, Department of Labor, Washington, D.C. March 1983 to Present.

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

NONE

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Had two articles published in FBI Law Enforcement Bulletin on Moral and Discipline. Wrote "The President's Message' for the Association of Federal Investigators' quarterly newsletters during 1981-1982. Contributed technical articles and other news items.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

National Tax Limitation Committee, $25.00 contribution 1980, $10.00, 1981.

No other political affiliations or contributions.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I have no other business connections other than my current employment at the Department of Labor.

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

NONE

3. Has a commitment been made to you for employment after you leave Federal service?

NO

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

YES

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

NONE

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

NONE

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

NONE

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I do not anticipate any.

The CHAIRMAN. Well, thank you so much.

Mr. Hyland, would you please state for the record the responsibilities of the Inspector General with regard to the investigation of labor racketeering, or at least as you see them?

Mr. HYLAND. Yes. When the Inspector General Act was passed, as part of that act the Office of Special Investigations—as it was known at that time—was transferred to the Inspector General's office. The Secretary has the authority to investigate any criminal wrongdoing involving the unions, and that delegation was passed on to the Office of Special Investigations, which is now referred to as our Office of Organized Crime and Racketeering.

Basically our responsibility is to determine through intelligence whether or not there may be some illegal activity on the part of organized crime figures. With that, we work very closely with the Department of Justice Strike Forces and with the Organized Crime Section back here at Department of Justice headquarters.

The CHAIRMAN. Would you please explain how you coordinate the investigations run out of your Office of Organized Crime and Racketeering with the activities and investigations of the Department of Justice and other divisions within the Labor Department?

Mr. HYLAND. Yes. If it involves a traditional organized crime matter, we will work closely with the local strike force attorneys. If they agree that there may be some criminal potential, they would submit a case initiation report to the Department of Justice. If approved, we would begin to work that matter.

As far as the agencies within the Department of Labor, the principal agency that we have something in common with is LMSA. We do have a memorandum of understanding with LMSA that was agreed to in 1980. Basically, it provides that LMSA will furnish us monthly reports of their audit and investigative activity. We have informed them of our areas of interest, and if they come up with any information in that area they will stop and notify us, and then we would get together with them and discuss a course of action.

The CHAIRMAN. How does the division go about selecting a union or a union official for investigation?

Mr. HYLAND. Basically it is as a result of intelligence and coordination with the FBI, the local law enforcement and State law enforcement officials. As a result of that intelligence, if we feel that some of the activity is being directed toward a union we would initiate a memorandum for the strike force attorney. If they agree, we would begin the investigation. It is a rather unscientific approach, but it is based really on intelligence.

The CHAIRMAN. Do you feel that the agents in your Office of Organized Crime and Racketeering would be able to perform their jobs more effectively and with greater safety if they were given traditional police powers, such as the authority to serve warrants, pay informants, make arrests, or carry weapons?

Mr. HYLAND. Definitely. I think, as I said at the outset, the agents are performing very effectively. I think it is being done at great personal risk and sacrifice. I think there may be some situations where the agents might be intimidated. I think that if they do have this authority, they will be able to move out effectively. They would avoid a lot of, I think, unnecessary paperwork as far as getting deputization on each instance where they feel they need fire-

arms. I think as far as the productivity, that it would definitely be enhanced if they had law enforcement authority.

The CHAIRMAN. I think it is crucial that you advocate this position after your nomination is approved——

Mr. HYLAND. I intend to do so.

The CHAIRMAN [continuing]. Because I really feel deeply about that. I feel these agents do a terrific job; they are experts in the field. They have more capacity, because of working in that field as specialists, to do even more than the FBI and other related law enforcement agencies. That is not to demean or diminish the effective work those agencies are doing. It is just that these people are pros, and their professional responsibilities and professional abilities will enable them to do a lot more if they had these simple law enforcement powers. Therefore, I am hoping that you will be a very strong advocate for them.

Mr. HYLAND. I appreciate that, Mr. Chairman, and I am very proud of the work that they are doing.

The CHAIRMAN. So am I. I couldn't be more proud of any group of people in public life today, because those people risk their lives sometimes for little or no reason——

Mr. HYLAND. True.

The CHAIRMAN [continuing]. While they are trying to do what is right. When I say "for little or no reason" I mean because if they had the proper law enforcement powers, it wouldn't be nearly the risk that it would otherwise be. Therefore, we just need to fight that one through together, and I think my colleagues on this committee may help us on it as well.

Mr. HYLAND. Thank you.

The CHAIRMAN. Are there specific activities that you have been unable to initiate or accomplish as a result of the fact that we haven't been able to get you confirmed as of right now?

Mr. HYLAND. Yes, sir. I think the principal one is to work out a memorandum of understanding with the FBI in two areas: One is the white collar crime and program fraud area; and the other is on the organized crime activity. I have had just limited contact with them, with the FBI, and they agree that we probably could enhance our cooperation and coordination in this manner. At the proper time, I will be working for some kind of memorandum of understanding with the FBI.

The same is also true with the Department of Justice, as far as some of the activity that might be occurring beyond those cities in which they have strike forces.

There also are a number of personnel issues at the Office of Inspector General. For example, I am presently serving as the Deputy Inspector General. The deputy position gives direct oversight to the Office of Organized Crime. Consequently, I have been involved in that area to some degree and haven't been giving some of the other areas the attention that I think they deserve.

We also have two other senior Executive Service positions that are vacant and I haven't been able to move on them, one of which is the Assistant Inspector General for Management. This is particularly acute at this time, since at present we are in the process of evaluating a proposal for a management information system that would have broad ramifications on the way that we are presently

operating and structured. I have to give that personal attention as well.

As a consequence, I haven't been able to give the overall programs the attention that I think they deserve. These are basically some of the problems that I have encountered.

The CHAIRMAN. Well, thank you, Mr. Hyland. We will certainly try and remedy that here in the committee today, and try to give you all the help and assistance we can here as well.

Senator Randolph, do you have any questions of Mr. Hyland?

Senator RANDOLPH. I might have one or two and a very brief comment, Mr. Chairman.

You made the statement, Mr. Chairman, that we have not been able to move forward with the nomination confirmation of Mr. Hyland. Has there been some difficulty, or has it just been that we have had other matters that kept us from having this hearing? I may have misread what you said, but you said in a way that we have not been able to——

The CHAIRMAN. Well, we did try to poll him about a month ago and there were some objections. Therefore, I have tried to move this nomination. Having this hearing today I think will get it effectively moved.

Senator RANDOLPH. Well, I want to assist you toward that end.

The CHAIRMAN. I appreciate that.

Senator RANDOLPH. I have read the statement, although I was not able to hear you, Mr. Hyland. However, in your remarks for the committee record you say, "I would like to insure that the Office of Inspector General special agents have the necessary law enforcement authority to properly fulfill their defined mission." I ask you the question, Is that authority now present? You indicate that you feel that perhaps it is not present.

Mr. HYLAND. That is correct, sir.

Senator RANDOLPH. I am sure that I read that into your statement.

Mr. HYLAND. That is correct, Senator. That is in reference to the law enforcement authority, which is the power to carry firearms, to serve subpenas, to make arrests, and to pay informants. We do not have that authority right now.

Senator RANDOLPH. Do you know why that has been withheld? It is in other agencies of Government; is that correct?

Mr. HYLAND. I can only speculate, Senator. You are correct; other agencies do have it. It is unusual that an inspector general's office have the organized crime activity, such as the Department of Labor, and I don't know why the Department of Justice has taken opposition to this position. I guess I could speculate that they might see it as an incursion on part of the authority of the FBI. That would be the only reason I can think of.

Senator RANDOLPH. It would seem to me that that authority, now lodged in other agencies of Government, would be an authority that could well be certainly within the scope of the necessary backup for you and others to act. I would want to look into that further, perhaps, but as of this moment I can only say that I believe that that authority should be given to this office as well as the authority which is now lodged in other agencies and depart-

ments of Government. How would you feel about that, Mr. Chairman?

The CHAIRMAN. I am sorry, Senator Randolph. I must have missed the question.

Senator RANDOLPH. Well, he indicated that there is not now the necessary law enforcement authority to fulfill what he believes is his mission.

The CHAIRMAN. I am sorry. I missed that, just the one word there.

I am a strong supporter of giving them the legal authority to be able to fulfill their missions.

Senator RANDOLPH. That is what I feel.

The CHAIRMAN. I don't care what the Justice Department or the FBI thinks. They are just protecting their turf, and I think we in this committee ought to do that. With your help, I think we will be able to.

Senator RANDOLPH. Well, I will work with you because I, too, believe that is necessary. You now have something that you ought to be able to use properly, but now you cannot reach out and use it. Is that correct?

Mr. HYLAND. Exactly. That is exactly it.

Senator RANDOLPH. Further, Mr. Hyland, you say, "I look forward to pursuing these endeavors, and hope to establish a stronger working relationship with the Department of Justice, the Federal Bureau of Investigation, and the agencies within the department."

This statement I think is wholesome. You are not saying that you want to stand apart. You have an obligation within this particular agency to do what is set forth in the nomination which is before us, and you look upon that as a challenge, certainly. We understand that the problem is there and it is a challenge. I never really feel we serve too well when we think we can solve problems just because they are problems; we have to look at them as challenges, and I look upon this as a challenge to you.

I like your attitude here, that cooperative spirit. You are not trying to infringe on someone or some other agency or authority, but you are trying within those requirements that you have for this sort of an important post, with a feeling that what you do does not stand apart but is a part of the process which should always be within such agencies of Government, to be able to act in a way that the information you desire can be elicited and used, sometimes not to bring problems or disappointments to someone but really in an effort—it turns out, often—whereby that person is helped to justify what he may have done. Is that correct?

Mr. HYLAND. That is my position, Senator. I feel that the Department of Labor has a unique area of expertise. If we can blend that expertise with the resources of some of the other law enforcement agencies, I think we can get on and do the job a whole lot easier, more effectively and more efficiently. I would like to build a good working relationship with the FBI and some of the other law enforcement authorities. I think if we can get that partnership we can make really major and significant contributions in this effort involving organized crime.

Senator RANDOLPH. I would only add that yesterday there was a hearing, as our able chairman knows, in this room on the matter of

the techniques, let's say, which would help us to better handle fires of one type or another, in households or in apartments or in business structures. As I look at those techniques for the improvement of the materials that perhaps might be fire-resistant and all of that background, there kept moving in on me the thought, "Almost 30 percent of the fire loss in West Virginia in fiscal year 1982 was caused by arson." That concerns me. It is 28.4 percent in the State of West Virginia. That is really what you are dealing with, isn't it?

Mr. HYLAND. I think you have——

Senator RANDOLPH. I will continue, and then stop.

I have been reading about a so-called ring of some magnitude, and I cannot even designate the city, where a group of arsonists—for some reason angry at someone who lives somewhere, and then light the fire which causes the house to become a conflagration and perhaps kill the occupants—a group of arsonists who just go here and go there to commit acts of arson, so apparently they can secure payment for the insurance that is involved in the fire that takes place. Do you know about that, sir?

Mr. HYLAND. Yes, I am aware of that, Senator, and I think that this builds upon the point that I was trying to make: Organized crime figures do not restrict themselves to one type of violation. They will do whatever they can where it involves a profit, and when you are dealing with these violations such as arson you need a very high degree of expertise to work that type of violation, just as in violations of labor laws you need a high degree of expertise.

However, we are looking basically at the same people, and if you can coordinate those investigative efforts and work toward a common end, I think you can have great hopes for success. Otherwise, I think you are doomed to failure.

Senator RANDOLPH. I shall support your nomination on this committee——

Mr. HYLAND. Thank you.

Senator RANDOLPH [continuing]. And your confirmation when hopefully we will vote in the Senate.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Randolph.

Thank you so much, Mr. Hyland. We will push your nomination through as quickly as we can so that you can get your work done. We apologize to you that it has taken us this long. Frankly, you should have gone through on a polling vote rather than having to go through a hearing, but I think it is important that we have had this hearing, and we will push from here on in.

Mr. HYLAND. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you so much, sir. We appreciate your coming.

We have about 3 minutes until we start our markup on the Peace Academy, which is the sole business for today.

[Whereupon, at 9:28 a.m., the committee recessed, to reconvene immediately thereafter in open executive session.]

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